

DOCKET NO: 268435US61001



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :  
MARIO POLEGATO MORETTI : EXAMINER: KAVANAUGH, J.  
SERIAL NO: 10/529,187 :  
FILED: MARCH 24, 2005 : GROUP ART UNIT: 3728  
FOR: WATERPROOF AND :  
BREATHABLE SOLE FOR SHOES, AND  
SHOE MANUFACTURED WITH SUCH  
SOLE

RESPONSE TO RESTRICTION REQUIREMENT

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Restriction Requirement dated August 30, 2006, Applicant provisionally elects with traverse Species II: figures 6-9. Claims 17-23 and 27-32 encompass elected Species II.

Applicant respectfully traverses this Restriction Requirement for the reason that Species I and II have not been treated relative to making a showing of a lack of “unity of invention” as required by MPEP §1893.03(d). In this regard, MPEP §1893.03(d) establishes that the Examiner “must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group” (emphasis added).

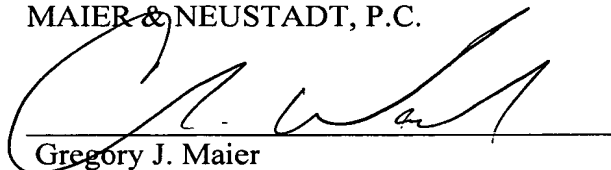
First, the Requirement does not list different groups of claims; it simply refers to Species I and II without listing the claims in each of these alleged species. Second, the

Requirement does not “(2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) **specifically describing the unique special technical feature in each group**” (emphasis added)

Therefore it is respectfully requested that the requirement to elect a single species be withdrawn, and that a full examination on the merits of Claims 17-32 be conducted.

Respectfully submitted,

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